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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,906	01/02/2001	Pieter Wilhelmus Johannes Smak	B0-42001	7281

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EXAMINER

GRILES, BETHANY L

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 03/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/720,906

Applicant(s)

SMAK, PIETER WILHELMUS
JOHANNES

Examiner

Bethany L. Griles

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-13 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

PETER M. POON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

fmP

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

On page 1 line 1, and on page 2 line 7 of the instant specification, applicant should delete the reference to the preamble of claim 1 and specifically insert those features relied upon claim 1 for the description since during prosecution of the case claims may be canceled and/or renumbered.

On page 1 line 19, note the sentence structure is awkward and confusing i.e. "...and spread the bulbs..."

On page 4, line 11 "cutting edge 5" was not described as the cutting edge previously. Only element numeral "12" was defined as the cutting edge.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 7, the applicant recites "such that they are resilient with respect to said accommodations". It is unclear what the applicant is claiming.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Watkins (USP 5,787,641).

Regarding claim 1, Watkins discloses a plastic body 10 having a number of accommodations 40 with an insertion opening for the plant (fig 2) and is at least partially open at the bottom 18; characterized in that the bottom is delimited by a cutting edge 28 ^{4/2} acting in the direction in which the plant is removed.

Regarding claim 2, Watkins discloses a clamping means 40, 42.

Regarding claim 5, Watkins discloses that the clamping means have sharp cutting edges (see fig 1).

Regarding claim 6, Watkins discloses at least 3 clamping means (see fig 1).

Regarding 7 as best understood, Watkins discloses that the clamping means 42 are resilient to the accommodations.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins in view of Houg et al. (EP 758,524).

Regarding claim 3, Watkins discloses plates 42.

Watkins does not disclose the plates extending further into the accommodation 40 from the insertion opening to the bottom of the accommodation.

Houg et al. disclose the plates 130 extending further into the accommodation 100 from top to bottom.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Houg et al. to the invention of Watkins in order to make the plates capable of supporting the plant placed within the accommodation.

Regarding claim 4, Watkins discloses the plates 42, and that they are essentially perpendicular to the peripheral boundary of the accommodation (see fig 1).

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins in view of Williams (EU 195,693).

Regarding claim 8, Watkins discloses the accommodations 40.

Watkins does not disclose that they are hexagonal.

Williams discloses that the accommodations are hexagonal (see fig 2b).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Williams to the invention of Watkins in order to make maximum use of the space available.

Regarding claim 9, Watkins discloses the accommodations 40.

Watkins does not disclose that the clamping means 42 extend from a corner point of a hexagon.

Williams discloses that the means extend from corners of the hexagon 14 (see fig 4c).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Williams to the invention of Watkins in order to have a strong site at which to secure the means to the apparatus.

Claim 11, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins in view of Beljaars (EP 565,201).

Regarding claim 11, Watkins discloses the accommodation 40.

Watkins does not disclose that the accommodation is for a tulip bulb.

Beljaars discloses that the accommodation is for a tulip bulb (see abstract).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Beljaars to the invention of Watkins in order to use the invention in the shipping and cultivation of tulip bulbs or any other bulbous plant.

Regarding claim 12, Watkins as modified by Beljaars discloses that free space is delimited between the bottom of the tray and the base of the container 5 (see fig 1).

Regarding claim 13, Watkins as modified by Beljaars discloses that free space is common to at least a number of said accommodations 3 at the bottom (see fig 3).

Allowable Subject Matter

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thomas Des 419,913; Mori 4,612,726; Hawthorne 5,327,679.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703.308.2574. The fax phone numbers for

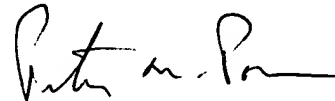
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the organization where this application or proceeding is assigned are 703.306.4196 for regular communications and 703.305.3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.5771.

Bethany L. Griles
Examiner
Art Unit 3643

blg
March 6, 2002



PETER M. POON
SUPERVISORY PATENT EXAMINER
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